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IN THE

Supreme Court of the United States

October Term, 1959

No. 173

AUDREY LEE LITTLE, *Petitioner*

v.

MISSOURI PACIFIC RAILROAD COMPANY,
Respondent

PETITION FOR REHEARING
On Denial of Petitioner's Petition for Writ of Certiorari

TO THE COURT OF CIVIL APPEALS FOR THE FIRST SUPREME JUDICIAL DISTRICT OF TEXAS, AT HOUSTON

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MISSOURI PACIFIC RAILROAD COMPANY,
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TO THE COURT OF CIVIL APPEALS FOR THE FIRST SUPREME JUDICIAL DISTRICT OF TEXAS, AT HOUSTON

To The Honorable Supreme Court of the United States of America:

Petitioner respectfully petitions this Honorable Court to grant a rehearing to set aside its Order and Judgment rendered on the 12th day of October, 1959 denying Peti-

tioner's Petition for Writ of Certiorari to the Court of Civil Appeals for the First Supreme Judicial District of Texas at Houston, and upon consideration of this Petition for Rehearing, said Petition for Writ of Certiorari heretofore filed be granted.

This is the *first* Petition for Rehearing and is made pursuant to sub-paragraph 2 of Rule 58 of the Supreme Court Rules.

GROUNDS

(1) The questions presented for review in this Honorable Court fairly involve the construction or scope of that part of Section 6 of the Federal Employers' Liability Act reading as follows:

> *"Under this Chapter an action may be brought in a District Court of the United States, in the District of the residence of the Defendant, or in which the cause of action arose, or in which the Defendant shall be doing business at the time of commencing such action. The jurisdiction of the Courts of the United States under this Chapter shall be concurrent with that of the Courts of the several States." (45 U.S. Code, Sec. 56) (Emphasis supplied).*

in a suit brought in a State District Court, a competent Court of general jurisdiction, selected by Petitioner where Respondent was admittedly doing business.

(2) A manifest injustice will result to Petitioner, as well as to all Federal Employers' Act plaintiffs who seek to pursue his or their remedy under the Federal Act in a State Court in Texas if the Petition for Writ of Certiorari is denied in the case at bar because it appears well settled that such a denial imports no expression of opinion upon the merits of the case by this Honorable Court, yet, in so

far as the lower State Courts in Texas are concerned, where the questions here presented will be first determined, the opinion and judgment of the Court of Civil Appeals for the First Supreme Judicial District of Texas at Houston is an authoritative decision, as well as persuasive authority, on the principle, which, Petitioner contends is fundamentally erroneous, in that it declares that the mandatory provision of the State Venue Law is controlling rather than the Federal Law as found in Section 6 of the Federal Employers' Liability Act.

QUESTIONS

(1) Does Section 6 of the Liability Act estabilsh the right of Petitioner to bring suit in a State Court of competent jurisdiction where Respondent admittedly is doing business?

(2) Can a State Venue Law which has a mandatory requirement that a suit for personal injuries against a railroad company must be brought in the plaintiff's residence or place of injury deprive a Petitioner of his substantive right to select a State forum to pursue his remedy in a State Court in Texas where Respondent is admittedly doing business at all material times?

(3) Can a State Venue law, which is not jurisdictional in a State where the doctrine of forum non conveniens is not applicable, prevent Petitioner from bringing and maintaining his suit under the Act in a State Court where Respondent is admittedly doing business.

STATEMENT

Petitioner brought this suit to recover damages against Respondent in a District Court of Harris County, Texas,

a Court of competent jurisdiction under the Texas law, where Respondent was admittedly doing business. The Trial Court overruled Respondent's Plea of Privilege to transfer this suit from Harris County to the District Court of McLennan County, Texas, based on the allegations and proof that, under Section 6 of the Liability Act, he had the right to pursue his remedy in a State Court where Respondent was admittedly doing business, that such right to select the forum in which to pursue his remedy was a substantive right ~~created~~ created under Sec. 6 of the Liability Act, that the Federal law controlled rather than any mandatory provision of the State Venue Law which required that he bring suit in the (a) county of his residence; or (b) where the accident occurred; that Congress had refused to enact a proposed amendment to Section 6 of the Liability Act requiring that a suit of this type be brought in (a) county of plaintiff's residence; or (b) where the accident occurred, which proposed amendment carried provisions in substantially the same language as that found in the State Venue Law. Respondent appealed from this Order of the Trial Court, and upon appeal the Court of Civil Appeals for the First Supreme Judicial District of Texas, at Houston, reversed and remanded the cause to the Trial Court with instructions to transfer this suit to the District Court of McLennan County, Texas on the basis that the State Venue Law controlled rather than Section 6 of the Liability Act.

ARGUMENT

The questions fairly involved the construction and scope of Section 6 of the Liability Act. While counsel for Respondent says in his Brief in Opposition to the Petition for Certiorari that Petitioner has cited no case which sup-

ports his contentions, the language used by this Honorable Court, as well as individual members of this Honorable Court, clearly reveals an interpretation of Section 6 of the Liability Act *as establishing Petitioner's right to bring suit in a State Court of competent jurisdiction where Respondent is admittedly doing business.*

In the case of *Pope v. Atlantic Coast Line R. Co.* (1953), 345 U.S. 379, 73 S. Ct. 749, Section 6 of the Act was construed in relation to a suit brought in the State Court of Alabama. It was there said in an opinion by Mr. Chief Justice Vinson:

> "Jurisdiction and *venue* were grounded on Section 6 of the Act. (73 S. Ct. 750).
>
> "Section 6 of that Act establishes Petitioner's right to sue in Alabama. It provides that the employee may bring his suit wherever the carrier 'shall be doing business', and admittedly Respondent does business in Jefferson County, Alabama. Congress has deliberately chosen to give Petitioner a transitory cause of action; * * * * * *" (73 S. Ct. 751).

It was, in that case, this Honorable Court pointed out that Congress refused to enact a Bill which would have amended Section 6 of the Federal Employers' Act by limiting the employee's choice of venue to the place of his injury or to the place of his residence. Yet, the State Statute, which the State Court found controlled rather than Section 6 of the Liability Act, limits the available forum in a Texas State Court to either the place of residence of the plaintiff or to the place where the accident occurred.

If the construction and scope of Section 6 of the Liability Act establishes Petitioner's right to bring and main-

tain suit in a State Court where Respondent is admittedly doing business, then it is respectfully submitted that under the well established principle announced by this Honorable Court in numerous decisions, a State statute cannot take that right away from Petitioner, particularly one which deprives him of the right to select the forum, which this Honorable Court has stated is a substantive right.[1]

In the case at bar, the Trial Court followed this Honorable Court in its interpretation and construction and scope of Section 6 of the Liability Act. This is not the first time a Trial Court in Texas has overruled a defendant's Plea of Privilege based on the State law in a suit brought under the Federal Employers' Liability Act on the ground the federal law as found in Sec. 6 of the Liability Act controlled rather than the State law. Rarely has a carrier appealed such a ruling of a Trial Court in overruling its Plea of Privilege for a transfer under the State Venue law. The right, however, to bring suit in a state court in Texas in a county where Respondent is admittedly doing business has been a matter of concern to the attorneys representing Liability Act plaintiffs in a Texas State Court. On the fundamental principles announced by this Honorable Court, the conclusion seemed inescapable that the Federal law controlled rather than the State law. In informal discussions of the question by counsel for Liability Act plaintiffs with attorneys of the bar representing some of the carriers where the problem has been presented, the consensus of opinion has been that the Federal law would control rather than the State law. It

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[1] **Boyd v. Grand Trunk Western R. Co.** (1949), 338 U.S. 263, 70 S. Ct. 26, 94 L.Ed. 55:

"And nothing * * * affects the initial choice of venue afforded Liability Act plaintiffs' pp. * * *

"The right to select the forum granted in Section 6 is a substantial right. * * *" (70 S.Ct. 28)

is clear, however, that if this Honorable Court does not take jurisdiction and consider the questions, the opinion of the Court of Civil Appeals in the case at bar will be decisive against Liability Act plaintiffs because the State Court met the issue squarely and held *the State Venue law controlled rather than the Federal law.* By the denial of the Petition for Writ of Certiorari, this Honorable Court has foreclosed a question of vital importance to the rights of Liability Act plaintiffs who seek to pursue their remedy in a State Court in Texas even though such denial imports no expression of opinion upon the merits of the case or the question presented. The practical effect, of course, will be for a Carrier to cite the State Court's decision in like situations in other cases brought in Texas which will be decisive of the question, with the additional emphasis on the fact this Honorable Court denied Certiorari. How then can Petitioner or future Liability Act plaintiffs in Texas secure relief in the exercise of the rights given to them under Section 6 of the Liability Act to bring suit in a State Court where Respondent is admittedly doing business?

Respondent, in its Brief in Opposition, does not meet the issue squarely. The Brief seems to try to muddy the water by referring to Section 1404(a) enacted for a transfer of cases brought in the Federal Court as giving a State the same right. There is a fundamental difference, however, between the two statutes, in that the Federal Statute is one which gives the Federal District Court an opportunity to determine, in its discretion, the forum which will be more convenient, whereas the State Venue Law relied upon by Respondent in the case at bar is one which *prohibits* the maintenance of a suit in a State Court where Respondent is doing business by a plaintiff who resides outside of the county, or the injury did not occur in that

county, *unless the carrier is willing to waive the rights conferred upon it under the State Venue Law*. In other words, if a Plea of Privilege is filed, the Trial Court has no discretion in the matter but *must* transfer under the mandatory provisions of the State law. *Jurisdiction* of the State Court is not a question at issue—*it is the privilege of defendant* which is at issue. How then can a Liability Act plaintiff in Texas exercise his right to select the forum if the State law gives this right to the defendant carrier?

In *Miles v. Illinois Central Railroad Co.* (1942), 315 U.S. 698, 62 S. Ct. 827, 86 L. Ed. 1126, Mr. Justice Reed, in delivering the opinion of the Honorable Court said the following at 62 S. Ct. 829:

> "The specific declaration in section 6 that the United States courts should have concurrent jurisdiction with those of the several states and the prohibition against removal point clearly to the *conclusion that Congress has exercised its authority over interstate commerce to the extent of permitting suits in state courts*, despite the incidental burden, where process may be obtained on a defendant, not merely soliciting business *but actually carrying on railroading by operating trains and maintaining traffic offices within the territory of the court's jurisdiction.*" (Emphasis supplied).

At Page 831, 62 S. Ct., Mr. Justice Reed said:

> "* * * *the right to sue in state courts of proper venue where their jurisdiction is adequate is of the same quality as the right to sue in federal courts.* It is no more subject to interference by state action than was the federal venue in the Kepner case. (Emphasis supplied).
>
> "The permission granted by Congress to sue in state courts may be exercised only where the carrier is found doing business." (Emphasis supplied).

In the concurring opinion Mr. Justice Jackson said:

> "Unless there is some hidden meaning in the language Congress has employed, the injured workman or his surviving dependents may choose from the entire territory served by the railroad any place in which to sue, and *in which to choose either a federal or a state court of which to ask his remedy*." (62 S. Ct. 832). (Emphasis supplied).

If Section 6 of the Liability Act establishes the right to bring suit in a State Court where Respondent is doing business as announced in the *Miles* case, supra, how can a State law take away this right? How can a State law, as found in the Texas Venue Law, take away this right when such law does not *involve* the jurisdiction of the Court, and does not involve a State's control of jurisdiction of its Court? In the case at bar, *Respondent makes no contention the Harris County State Court did not have jurisdiction.*[2] *Moreover, under the Texas law no such contention could be made.*

What is the meaning or scope and effect of the last sentence of Section 6 of the Liability Act reading as follows:

> "The jurisdiction of the courts of the United States under this chapter concurrent with that of the courts of the several States."

In Respondent's Brief in Opposition to this Writ, the above sentence is *ignored* except for a repetition of the

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[2]Compare the cases of **Chambers v. Baltimore & Ohio Railroad Company**, 207 U.S. 142, 28 S.Ct. 34, 52 L.Ed. 143, and **Douglas v. New York, New Haven R. Co.**, 279 U.S. 377, 49 S.Ct. 355, 73 L.Ed. 747, cited at 62 S.Ct. Page 830 in the **Miles** case supra, cited in Respondent's Brief in Opposition, which cases involve a question of a State's control of **jurisdiction** of its Courts as distinguished from **venue**.

sentence as quoted above *without comment*. Yet, Mr. Justice Reed, speaking for this Honorable Court said, in the *Miles* case, supra, (62 S. Ct. 831), the right to sue in a state court of adequate jurisdiction is of the same *quality as the right to sue in federal courts*. Where? He says *"The permission graned by Congress to sue in state courts may be exercised only where the carrier is found doing business."* (62 S. Ct. 831). Does this mean Congress gave a Liability Act plaintiff a right to sue where the carrier is doing business, but that a State Legislature can take away this right by requiring a Liability Act plaintiff, pursuing his remedy under the Liability Act in a Texas State Court, must bring suit where either plaintiff resides or where the accident occurred?

If the State Court decision is permitted to stand by this Honorable Court, and this Rehearing is denied, then it is respectfully submitted a well established principle, established and announced by this Honorable Court, will be violated because it will mean that a substantive right created under the Liability Act by Congress can be impaired by local statute, rule or decision, or forms of local practice.[3] Moreover, it violates the principles that the grant of concurrent jurisdiction implies that, in the first in-

[3] A few of the cases decided by this Honorable Court are cited at Page 27 in Petitioner's Petition for Writ of Certiorari, and the number could be multiplied, for example: **Arnold v. Panhandle & Santa Fe Railway Co.** (1957), 353 U.S. 360, 77 S.Ct. 840, reh. denied, 354 U.S. 927, 77 S.Ct. 1375 rev. Texas CCA 283 (2) 293; **Deen v. Hon. J. E. Hickman, Chief Justice and Hon. W. St. John Garwood, et al., Associate Justices of the Supreme Court of Texas,** —U.S.—, 79 S.Ct. 1, rev. 312 S.W. 2d 933, where the Texas Supreme Court contended **control of State Courts** gave them the power to set aside a verdict of a jury because it was contrary to the preponderance of the evidence, but this Honorable Court held this issue was foreclosed by the holding in **Deen v. Gulf, Colorado & Santa Fe R. Co.,** 353 U.S. 925, 77 S.Ct. 715, 1 L.Ed.2d 721, reversing the judgment of the Texas CCA, 275 S.W.2d 529.

stanee, the plaintiff shall have the choice of the Court. *Missouri Ex Rel, St. Louis, Brownsville & Mexico Railway Company v. Taylor* (1924), 266 U.S. 200, 45 S. Ct. 47, 69 L. Ed. 247, as well as the principle of *uniform interpretation* and Supremacy of the federal law announced in SECOND EMPLOYERS LIABILITY CASES *(Mondou v. New York, N.H. & H. R. Co.* (1912), 233 U.S. 1, 32 S. Ct. 169, 56 L. Ed. 327).

Recognizing that a denial of a writ does not mean this Honorable Court approves the decision of the State Court, yet, counsel for Petitioner is aware of the many cases over which this Honorable Court has granted a writ, and, either by a summary reversal of a State Court decision at the time of granting the writ or after argument, and has thus preserved substantial rights created by Congress, which could not have been preserved in other manner. *A substantial right of Petitioner, as well as all other Liability Act plaintiffs who bring suit in a Texas State Court, is here presented. It is a substantial question and of great importance for the preservation of Liability Act plaintiffs' rights in Texas. It fairly involves a question of the construction and scope of the second paragraph of section 6 of the Liability Act.* It is one upon which counsel for a Liability Act plaintiff should be able to advise an injured employee with some degree of certainty, i.e., whether he has a substantive right to select the forum in which to pursue his remedy in a State Court.

It would be impractical to seek relief in this Honorable Court each time the question is presented because such a delay in a trial of a case on its merits for such an appeal results in *an injustice* to the Liability Act plaintiff. In the case at bar, the injury occurred in 1956, and suit was filed in 1958. Immediately thereafter, a transfer was

sought by Repondent. The Trial Court preserved Petitioner's right under the federal law, but the Court of Civil Appeals denied plaintiff of his right to select the forum in which to pursue his remedy in a State Court under Section 6 of the Liability Act, and gave controlling effect to the state law which required Petitioner to bring suit under the Liability Act in a State Court of Texas either where he resided or where the injury occurred, despite the fact Congress refused to enact a proposed amendment to Section 6 of the Liability Act to the very places of trial required under the Texas Venue Law.

It would have been a rather risky procedure to have proceeded to trial on the merits of this case because if the higher Court reversed the Order overruling the Plea of Privilege, as was done in the case at bar, any judgment in the case on its merits would result in reversal of any judgment against the Respondent who filed the Plea of Privilege. On the other hand, a judgment upholding the Plea and Ordering a transfer of the cause to the place fixed in the Order (McLennan County, Texas where Petitioner resides and the injury occurred) *irrevocably fixes the venue of any other suit brought involving the same subject matter.* In other words, the judgment rendered by the State Court sustaining Respondent's Plea of Privilege (preserving Respondent's right), is *res adjudicata* of the *venue issue.* In order for Petitioner to proceed to trial on the merits of the case, the trial *must be in a forum* which has been designated by a State Venue Law, and he is *forever foreclosed* from asserting his right to select a forum in a Texas Court where Respondent is admittedly doing business.

Unless this Honorable Court grants relief, *no other Texas Liability Act plaintiff* can select a State Court in Texas where Respondent is admittedly doing business in

which to pursue his remedy under the Act because of the holding of the State Court that the State law controls rather than Section 6 of the Liability Act.

In the Brief in Opposition to the Writ, Respondent argues and makes the following admission:

> "While of course the doctrine of forum non conveniens is not available to transfer a case from one county to another county in the State of Texas, the same result is reached by applying the Texas Venue Statutes. Respondent's point is simply that Petitioner does not have an unrestricted right, under Section 6 of the Act, to choose the site of his trial in the Federal Court system." (Bottom of Page 10 and top of Page 11 of Respondent's Brief in Opposition to the Writ.)

But, this argument in regard to the *right of a Liability Act plaintiff* in the Federal Court system is directly contradictory to the right of a Liability Act plaintiff in the Federal Court system as declared by this Honorable Court in *Ex Parte Collett* (1949), 337 U.S. 55; 69 S. Ct. 944, 93 L. Ed. 1207, where this Honorable Court said:

> "Section 6 of the Liability Act defines the *proper forum*; § 1404(a) of the Code deals with the right to transfer an action properly brought. The two sections deal with two separate and distinct problems. Section 1404(a) does not limit or otherwise modify any right granted in § 6 of the Liability Act or elsewhere to bring suit in a particular district. *An action may still be brought in any court, state or federal, in which it might have been brought previously.*" (Emphasis supplied) (69 S. Ct. 947).

Moreover, as heretofore pointed out, a Federal Court exercises its discretionary power to determine whether the

case should be transferred. *Norwood v. Kirkpatrick* (1955), 349 U.S. 29, 75 S. Ct. 544. A Texas Court, under the State Venue Law, does not have *any discretionary power*, but under the holding of the State Court, in the case at bar, the lower Court, or Trial Court, *must* transfer upon a carrier as Respondent was invoking the provisions of the State Venue Law.

Obviously, the admission of counsel for Respondent that the doctrine of forum non conveniens is not available in Texas, clearly demonstrates that the *Missouri*[1] case relied upon by Respondent cannot be decisive of the case at bar, because in that case this Honorable Court held that a State Court was free to determine whether that doctrine was available under the local law. Moreover, under that doctrine the *jurisdiction* of the Court is attacked as distinguished from the question of *venue*. Mr. Justice Frankfurter, the author of the opinion in the *Missouri* case, supra, said in his dissenting opinion in the *Pope*[2] case:

> "Only if he brings his action in a court of *one of these States* (a state which has not adopted the doctrine of *forum non conveniens*) *can a plaintiff be sure*, under today's decision, that no matter how unjustifiable his choice, *the forum in which the action is brought will be the forum in which it is tried*. (Emphasis supplied) (73 S. Ct. 756).

Could there be any plainer language that Petitioner's right *to try his case in a State Court where a Carrier is doing business* is established under Section 6? Could there

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[1]**Missouri Ex Rel St. Louis, Brownsville & Mexico Ry. Co. v. Taylor** (1924), 266 U.S. 200, 45 S.Ct. 47, 69 L.Ed. 247.

[2]**Pope v. Atlantic Coast Line R. Co.** (1953), 345 U.S. 379, 73 S.Ct. 749.

be any plainer language that the specious argument advanced by Respondent above set out is immaterial and impertinent to the question here presented? Can there be any plainer language than that this Honorable Court has construed Section 6 of the Liability Act establishing Petitioner's right to bring suit in a State Court where Respondent is admittedly doing business? Is not such a construction of said Act binding on a State Court?

If such construction or interpretation of Section 6 of the Liability Act does not establish Petitioner's right to bring and maintain suit under Section 6 of the Liability Act in a State Court where Respondent is admittedly doing business, then, it is respectfully submitted that the questions presented here involve *the construction and scope of Section 6 of the Liability Act.* If Petitioner is correct that this Honorable Court has construed Section 6 of the Liability Act as establishing Petitioner's right, as well as all other Liability Act plaintiffs bringing suit in a Texas State Court where Respondent is admittedly doing business, then it is respectfully submitted that the *State Court has not followed the construction of that Section of the Act as declared by this Honorable Court. It has made the State Venue Law the Supreme Law rather than the Federal Law.* It is an elementary, as well as an established principle of law that the Supreme Law of the land is the Federal Law and the interpretation of same by this Honorable Court.

Respondent further argues, in its Brief in Opposition, there is no discrimination of suits brought under the Federal Act in Texas because the employee has the same right as the plaintiff who was injured in a crossing accident in regard to the place of trial. This begs the question. If Section 6 establishes the right whether there was

any discrimination between a suit brought under the F.E.L.A. and a crossing accident is impertinent. The District Court where this suit was brought was one of general jurisdiction, empowered to take cognizance of actions to recover for personal injuries and for death, and was one accustomed to exercise that jurisdiction. Therefore, it had jurisdiction and venue under Section 6 of the Liability Act. SECOND EMPLOYERS LIABILITY ACT CASE (*Mondou v. New York, N. H. & H. R. Co.* (1911), 233 U.S. 1, 32 S. Ct. 169, 56 L. Ed. 327.) Moreover, in the cited case, this Honorable Court pointed out that the Act created the policy as if the Act had emanated from a State's own legislature and should be respected accordingly in the Courts of the state. *Can a State legislature enact a State Venue Law that takes away a right to select a forum granted to a Liability Act plaintiff*, which law, in all practical effect, limit the choice of Court to the plaintiff's residence or the place the injury occurred upon demand by the Respondent for a transfer pursuant to the terms of said State Venue Law.

CONCLUSION

It is earnestly requested that this Petition for Rehearing of the denial of the Writ of Certiorari to the Court of Civil Appeals for the First Supreme Judicial District of Texas, at Houston, be granted and upon reconsideration of the Writ of Certiorari and this Petition, the rights accorded to Petitioner, as well as all other Liability Act plaintiffs under Section 6, who seek to pursue their remedy in a Texas State Court where Respondent is admittedly doing business, be preserved. This is the only Court where a Liability Act plaintiff can now secure relief in order to

exercise the rights accorded to him under Section 6 of the Liability Act. A manifest injustice will be done unless the Writ is granted, not only to Petitioner but to all other Texas Liability Act plaintiffs. It is a matter of grave importance to all such Liability Act plaintiffs. This Honorable Court has heretofore considered that the preservation of the rights of the parties accorded under the Liability Act is a matter of concern of this Honorable Court. If the Petitioner's Rehearing is granted, it is respectfully submitted that upon consideration of this Petition and the Petition for Writ of Certiorari, that the judgment and opinion of the Court of Civil Appeals for the First Supreme Judicial District of Texas be reversed, and that of the Trial Court be reinstated, because in that Court the rights created under Section 6 of the said Liability Act were accorded to Petitioner. Petitioner prays for such other and further relief, general and special, at law and in equity, to which he may show himself justly entitled.

Respectfully submitted,

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By _____
Member of the Bar of the Supreme
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It is certified that this Petition for Rehearing is presented in good faith and not for delay, and, in so far as possible, counsel has restricted this Petition for Rehearing to substantial grounds not previously presented, although some of the same cases heretofore cited in the Petition for Writ of Certiorari are again cited and because of the manifest injustice which will be done to Petitioner, as well as all other Texas Liability Act plaintiffs who would be deprived of rights accorded under Section 6 of the Liability Act unless this Honorable Court grants relief.

ALBERT P. JONES
Member of the Bar of the Supreme Court of the United States

Certificate of Service

I certify that a copy of the foregoing Petition for Rehearing of the denial of the Petition for Writ of Certiorari has been mailed on the 31st day of October, 1959 to the Respondent's attorneys as follows: To Messrs. Hutcheson, Taliaferro & Hutcheson, 1720 Niels Esperson Building, Houston 2, Texas, and to Howard S. Hoover, Esq., and Messrs. Arterbury, Hoover and Graham at their offices at 1538 Bank of the Southwest Building, Houston 2, Texas.

ALBERT P. JONES